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12 CFR Ch. II (1–1–16 Edition)

(f) *Recordkeeping requirements.* A depository institution shall segregate on its books and records the asset and liability accounts of its IBF and submit reports concerning the operations of its IBF as required by the Board.

[46 FR 32429, June 23, 1981, as amended at 51 FR 9636, Mar. 20, 1986; 56 FR 15495, Apr. 17, 1991; 61 FR 69025, Dec. 31, 1996]

§ 204.9 Emergency reserve requirement.

(a) *Finding by Board.* The Board may impose, after consulting with the appropriate committees of Congress, additional reserve requirements on depository institutions at any ratio on any liability upon a finding by at least five members of the Board that extraordinary circumstances require such action.

(b) *Term.* Any action taken under this section shall be valid for a period not exceeding 180 days, and may be extended for further periods of up to 180 days each by affirmative action of at least five members of the Board for each extension.

(c) *Reports to Congress.* The Board shall transmit promptly to Congress a report of any exercise of its authority under this paragraph and the reasons for the exercise of authority.

(d) *Reserve requirements.* At present, there are no emergency reserve requirements imposed under this section.

[45 FR 56018, Aug. 22, 1980. Redesignated at 74 FR 25638, May 29, 2009]

§ 204.10 Payment of interest on balances.

(a) *General.* (1) Except as provided in paragraph (c) of this section, interest on balances maintained at Federal Reserve Banks by or on behalf of an eligible institution shall be established by the Board in accordance with this section, at a rate or rates not to exceed the general level of short-term interest rates.

(2) For purposes of this section, the amount of a “balance” in an account maintained by or on behalf of an eligible institution at a Federal Reserve Bank is determined at the close of the Federal Reserve Bank’s business day.

(3) For purposes of this section, “short-term interest rates” are rates on obligations with maturities of no

more than one year, such as the primary credit rate and rates on term federal funds, term repurchase agreements, commercial paper, term Euro-dollar deposits, and other similar instruments.

(4) The payment of interest on balances under this section shall be subject to such other terms and conditions as the Board may prescribe.

(b) *Payment of interest.* Interest on balances maintained at Federal Reserve Banks by or on behalf of an eligible institution is established as set forth in paragraphs (b)(1) through (4) of this section. The rates for IORR and IOER are set forth in paragraph (b)(5) of this section.

(1) For institutions that maintain balances that are, on average over the maintenance period, in excess of the top of the penalty-free band, interest is:

(i) The amount equal to the average IORR rate over the maintenance period multiplied by the average balance up to the top of the penalty-free band maintained over the maintenance period; plus

(ii)(A) The amount equal to the IOER rate in effect each day multiplied by the total balances maintained on that day for each day of the maintenance period; minus

(B) The amount equal to the average IOER rate over the maintenance period multiplied by the average balance up to the top of the penalty-free band maintained over the maintenance period.

(2) The interest amount under paragraph (b)(1) of this section shall not be less than an amount equal to the amount specified in paragraph (b)(1)(i) of this section.

(3) For institutions that maintain balances that are, on average over the maintenance period, equal to or lower than the top of the penalty-free band, interest is the amount equal to the average IORR rate over the maintenance period multiplied by the average balance maintained over the maintenance period.

(4) For term deposits, interest is:

(i) The amount equal to the principal amount of the term deposit multiplied by a rate specified in advance by the Board, in light of existing short-term

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market rates, to maintain the federal funds rate at a level consistent with monetary policy objectives; or

(ii) The amount equal to the principal amount of the term deposit multiplied by a rate determined by the auction through which such term deposits are offered.

(5) The rates for IORR and IOER are:

	Rate (per- cent)	Effective
IORR	0.50	12/17/2015
IOER	0.50	12/17/2015

(c) *Pass-through balances.* A pass-through correspondent that is an eligible institution may pass back to its respondent interest paid on balances maintained to satisfy a reserve balance requirement of that respondent. In the case of balances maintained by a pass-through correspondent that is not an eligible institution, a Reserve Bank may pay interest only on the balances maintained to satisfy a reserve balance requirement of one or more respondents up to the top of the penalty-free band, and the correspondent shall pass back to its respondents interest paid on balances in the correspondent's account.

(d) *Excess balance accounts.* (1) A Reserve Bank may establish an excess balance account for eligible institutions under the provisions of this paragraph (d). Notwithstanding any other provisions of this part, the excess balances of eligible institutions in an excess balance account represent a liability of the Reserve Bank solely to those participating eligible institutions.

(2) The participating eligible institutions in an excess balance account shall authorize another institution to act as agent of the participating institutions for purposes of general account management, including but not limited to transferring the excess balances of participating institutions in and out of the excess balance account. An excess balance account must be established at the Reserve Bank where the agent maintains its master account, unless otherwise determined by the Board. The agent may not commingle its own funds in the excess balance account.

(3) Balances maintained in an excess balance account will not satisfy any in-

stitution's reserve balance requirement.

(4) An excess balance account must be used exclusively for the purpose of maintaining the excess balances of participants and may not be used for general payments or other activities.

(5) Interest on balances of eligible institutions maintained in an excess balance account is the amount equal to the IOER rate in effect each day multiplied by the total balances maintained on that day for each day of the maintenance period.

(6) A Reserve Bank may establish additional terms and conditions consistent with this part with respect to the operation of an excess balance account, including, but not limited to, terms of and fees for services, conditions under which an institution may act as agent for an account, restrictions on the agent with respect to account management, penalties for non-compliance with this section or any terms and conditions, and account termination.

(e) *Term deposits.* (1) A Federal Reserve Bank may accept term deposits from eligible institutions under the provisions of this paragraph (e) subject to such terms and conditions as the Board may establish from time to time, including but not limited to conditions regarding the maturity of the term deposits being offered, maximum and minimum amounts that may be maintained by an eligible institution in a term deposit, the interest rate or rates offered, early withdrawal of term deposits, pledging term deposits as collateral and, if term deposits are offered through an auction mechanism, the size of the offering, maximum and minimum bid amounts, and other relevant terms.

(2) A term deposit will not satisfy any institution's reserve balance requirement.

(3) A term deposit may not be used for general payments or settlement activities.

(f) *Procedure for determination of rates.* The Board anticipates that notice and public participation with respect to changes in the rate or rates of interest to be paid under this section will generally be impracticable, unnecessary,

contrary to the public interest, or otherwise not required in the public interest, and that there will generally be reason and good cause in the public interest why the effective date should not be deferred for 30 days. The reason or reasons in such cases are generally expected to include that such notice, public participation, or deferment of effective date would prevent the action from becoming effective as promptly as necessary in the public interest, would permit speculators or others to reap unfair profits or to interfere with the Board's actions taken with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country, would provoke other consequences contrary to the public interest, would not aid the persons affected, or would otherwise serve no useful purpose.

[Reg. D, 74 FR 25629, May 29, 2009, as amended at 75 FR 24389, May 5, 2010; 76 FR 42019, July 18, 2011; 77 FR 21854, Apr. 12, 2012; 80 FR 35567, June 22, 2015; 80 FR 79461, Dec. 22, 2015]

INTERPRETATIONS

§ 204.121 Bankers' banks.

(a)(1) The Federal Reserve Act, as amended by the Monetary Control Act of 1980 (title I of Pub. L. 96–221), imposes Federal reserve requirements on depository institutions that maintain transaction accounts or nonpersonal time deposits. Under section 19(b)(9), however, a depository institution is not required to maintain reserves if it:

- (i) Is organized solely to do business with other financial institutions;
- (ii) Is owned primarily by the financial institutions with which it does business; and
- (iii) Does not do business with the general public.

Depository institutions that satisfy all of these requirements are regarded as *bankers' banks*.

(2) In its application of these requirements to specific institutions, the Board will use the following standards:

- (i) A depository institution may be regarded as organized solely to do business with other depository institutions even if, as an incidental part to its activities, it does business to a limited extent with entities other than deposi-

tory institutions. The extent to which the institution may do business with other entities and continue to be regarded as a bankers' bank is specified in paragraph (a)(2)(iii) of this section.

- (ii) A depository institution will be regarded as being owned primarily by the institutions with which it does business if 75 per cent or more of its capital is owned by other depository institutions. The 75 per cent or more ownership rule applies regardless of the type of depository institution.

- (iii) A depository institution will not be regarded as doing business with the general public if it meets two conditions. First, the range of customers with which the institution does business must be limited to depository institutions, including subsidiaries or organizations owned by depository institutions; directors, officers or employees of the same or other depository institutions; individuals whose accounts are acquired at the request of the institution's supervisory authority due to the actual or impending failure of another depository institution; share insurance funds; depository institution trade associations; and such others as the Board may determine on a case-by-case basis consistent with the purposes of the Act and the bankers' bank exemption. Second, the extent to which the depository institution makes loans to, or investments in, the above entities (other than depository institutions) cannot exceed 10 per cent of total assets, and the extent to which it receives deposits (or shares if the institution does not receive deposits) from or issues other liabilities to the above entities (other than depository institutions) cannot exceed 10 per cent of total liabilities (or net worth if the institution does not receive deposits).

If a depository institution is unable to meet all of these requirements on a continuing basis, it will not be regarded as a bankers' bank and will be required to satisfy Federal reserve requirements on all of its transaction accounts and nonpersonal time deposits.

- (b) (1) Section 19(c)(1) of the Federal Reserve Act, as amended by the Monetary Control Act of 1980 (title I of Pub. L. 96–221) provides that Federal reserve requirements may be satisfied by the maintenance of vault cash or balances